IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 90 OF 2007

Arvind K. Pandya ..Petitioner

Vs.

1. The State of Maharashtra
and anr. ..Respondents

Mr. U.S. Rao with Mr. J.K. Hegde for petitioner.
Ms. S.V. Gajare, APP for State.
Mr. R.C. Jain for respondent no.2.

CORAM: B.H. MARLAPALLE, J.

Date : July 12, 2007.

P.C.:

1. Heard the learned counsel for the petitioner. The petitioner has been convicted in Complaint No. 519/S/2003 on 24/4/2006 by the learned Magistrate for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The said order was challenged before the Sessions Court by filing Criminal Appeal No.451 of 2006 and the appeal came to be dismissed on 6/12/2006. Hence, this petition.

2. Before both the courts below a common legal point was argued by the accused, namely, whether two different criminal cases could be lawfully launched on the basis of one common demand notice and the accused had relied upon the decision of the Supreme Court in the case of Sadanandan Bhadran vs. Madhavan Sunil Kumar [1998 Cri.L.J. 4066]. The learned Sessions Judge noted that the judgment of the Supreme Court did not deal with the issues raised by the accused and in the reported case there was only one cheque which was presented for payment on more than one occasion. It was held that the demand notice sent for the first time alone constituted a cause of action and the subsequent dishonour of cheque on issuance of notice did not renew the cause of action. Issuance of one common notice for more than one cheques received from the same party and for the same transaction and to discharge the common legal liability cannot be a reason to hold that from the said notice more than one complaints have to be filed.

3. The petition is rejected summarily. Amount deposited is allowed to be withdrawn by the complainant.

(B.H. Marlapalle,J.)